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**To:** Microsoft ATR  
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Settling with Microsoft will not solve the problem that was created by Microsoft's predatory business practices, nor will it bring back the companies whose carcasses litter Microsoft's past.

I think there's one very specific thing that can be done to make the situation more competitive. After all, competition is the goal, right? The more companies competing for customers, the better the effort each company will put forth, and the slimmer the margin each company will skim. In the past, the OS portion of a computer purchase was small, like \$60 of \$3,000. These days it's more like \$90 ? but of a much smaller purchase, as full-featured computers can be purchased for \$700 these days. Even if the cost of Windows had stayed the same, rather than risen, the cost of Windows as a percentage of the cost of the computer would have risen.

My solution: declare illegal the contracts that Microsoft forces OEMs to sign, in order to get preferred pricing. These contracts enforce that the OEM cannot customize the computer; cannot put any third-party applications that compete with Microsoft's offerings (which these days are almost any third-party applications!); and what's worse, eliminate the OEMs ability to sell a computer with more than one operating system on it.

There was a Hitachi computer sold recently with the Be OS, but it was hidden; the customer had to jump through some difficult technical hoops to enable it. Be OS's founder, Jean Louise Gasse, announced that he would provide the OS for free to any computer manufacturer (OEM) who would ship it. Only one OEM did, Hitachi, but in a form that was rather unusable to most consumers.

If the Department of Justice does one thing and one thing only, it should be to eliminate Microsoft's OEM contracts. Force Microsoft to sell Windows at a specific price for a specific number of units (i.e., a customer purchasing 10,000 licenses could get a better deal than a customer purchasing 10 licenses; however, an OEM who agrees to ship only Windows XP and Office XP should not get a better deal than an OEM who prefers to ship Windows XP with Netscape and StarOffice, assuming they're purchasing the same number of licenses. Or a computer equipped with Windows XP and Red Hat Linux).

My point is Microsoft is selling a product. They shouldn't get the right to dictate how that product is used or configured when the OEM then sells it to the end user. There are many examples of this in other industries (i.e., Ford or GM may purchase radios from Blaupunkt or Sony, for installation in their vehicles; and often, the auto manufacturer removes the faceplate and replaces it with one with their logo). To take the auto metaphor further, Ford sells a car to its dealer. The dealer then adds decals and metal logos

with the name of the dealership to the back of the car, before selling it to the end user.

Obviously, Microsoft would want the OEM to not make changes to the Windows OS code, as that may destabilize the operating system and lead to crashes. However, when an OEM sells a computer, the contract they have with Microsoft forces the OEM to pay Microsoft for a Windows license, even if the computer was configured with a different OS! This reduces competition, because an OEM figures, if I have to pay for it anyway, I might as well ship it. If an OEM was free to sell computers configured however they wanted, and only pay for the parts included when that computer includes those parts, then I would say we have reached a fair settlement.

There are many, many other problems with the settlement, but if the OEM contract issue is resolved, the market will help correct the rest of the problems.

Thanks for listening,  
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